

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No.1144 of 2015**

Satish Rangari S/o Late Pooranlal Rangari Aged About 42 Years C/o Dinesh Rangari, Vindhyavasini Ward, Dhamtari, Tahsil, P.S. And Police Station Dhamtari, Civil And Rev. Distt. Dhamtari Chhattisgarh.

At Present R/o Mahima Sagar Ward, Dhamtari, Police Station And Post Dhamtari, Civil And Rev. Distt. Dhamtari Chhattisgarh.

**---- Applicant****Versus**

Smt. Sarita Rangari W/o Satish Rangari Aged About 28 Years C/o Krishna Rao Gajbhiye (Father), House No. 589, Marathi Mohalla, Kosa Nagar, Bhilai, Police Station And Post Bhilai, Civil And Rev. Distt. Durg Chhattisgarh.

**---- Respondent****&****Criminal Revision No.8 of 2016**

Smt. Sarita Rangari W/o Satish Rangari Aged About 28 Years R/o Through : Krishna Rai Gajariya (Father) House No. 589, Marathi Mohalla, Kosa Nagar, Bhilai, P.S. Supela, Tahsil & District Durg Chhattisgarh.

**---- Applicant****Versus**

Satish Rangari (Teacher) S/o Late Puran Lal Rangari Aged About 42 Years R/o Through : Dinesh Rangari, Vindhyavasini Ward, Dhamtari, Tahsil & District Dhamtari Chhattisgarh.

**---- Respondent**


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| For Applicant-Husband | : | Shri Arun Kumar Bajaj and Shri Manoj Paranjpe, Advocates. |
| For Respondent-Wife   | : | Shri Jitendra Gupta, Advocate.                            |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****12/01/2017**

1. These two revision petitions have been filed assailing the order dated 20.11.2015. Vide the said order, the court below i.e. 3rd Additional Principal Judge, Family Court, Durg, in Misc. Criminal Case No.351 of

2014 initiated at the behest of the respondent-wife under Section 125 CrPC has allowed the said application and ordered for payment of Rs.5000/- per month as maintenance to be paid by the applicant-Husband to respondent-Wife.

2. Criminal Revision No.1144 of 2015 has been filed by the Husband on the ground that granting of maintenance to the respondent is bad in law and needs to be set aside/quashed whereas, Criminal Revision No.8 of 2016 has been filed by the wife seeking for modification of the award by enhancing the award amount.
3. Counsel for the applicant-Husband submits that the court below has erred inasmuch as in not appreciating the evidence which have come on record. According to him, the evidence which have come on record clearly shows that there was no justified or plausible reasons for the wife to leave the matrimonial home and that she has in a very short span of marriage has left the matrimonial home voluntarily for which the applicant cannot be blamed and therefore, she was not entitled for grant of maintenance. He also challenges the order on the ground that the amount of maintenance awarded by the court below is also exorbitant and is on higher side and the same is beyond his paying capacity. It was also contended that the court below has committed an error of law in rejecting the two applications which were filed by him under Order 11 Rule 12 CPC seeking for producing bank account statement of the wife and another application which were moved for calling upon the Principal and staff of the School where the wife is

alleged to have been working as Computer Operator. According to him, rejection of both the applications are detrimental to the interest of the husband and for which also the amount awarded deserves to be set aside/quashed.

4. It is also contended by the Husband that the wife has left the matrimonial home without justified reasons is also established from the fact that there was a false and forged complainant lodged under Section 498-A IPC against the Husband and his family members, but vide order dated 30.09.2014 there is an honorable acquittal in favour of the Husband and his family members. The said order of acquittal has also been confirmed by the appellate court on 23.06.2016. Thus, it is established that the wife had left the matrimonial home without any sufficient/good reason and therefore she is not entitled for grant of maintenance. It is also submitted that his submission before the court below in respect of respondent's working as Computer Operator, she has not brought any evidence in rebuttal.
5. Counsel for the respondent-Wife, who is applicant in Criminal Revision No.8 of 2016, seeking enhancement of the award passed by the court below prays for rejection of the revision of the Husband on the ground that there is evidence on record by which it has been established that there were compelling circumstances which forced her to leave the matrimonial home. The very fact that wife has moved an application under Section 9 of the Hindu Marriage Act seeking for restitution of conjugal right is sufficient indication that the wife is still willing to stay

with the Husband, but it is the Husband who does not want the wife to stay with him. It is further submitted that in case if the wife would have left the matrimonial home voluntarily, she would not have filed an application under Section 9 of the Hindu Marriage Act. Another ground raised is that there was a notice of divorce and divorce case filed by the Husband as early as on 12.06.2013 which itself shows that Husband was not ready to keep the wife along with him and he wanted to break the relationship with the wife. According to her, if at all if the wife had left the matrimonial home voluntarily and the Husband was ever willing to keep the wife along with him, there was no any occasion for the Husband to file a divorce petition.

6. Having heard the rival contentions put forth on either side and on perusal of record, what clearly reflects is the fact the wife in this case has filed an application for restitution of conjugal rights and on the contrary the Husband has filed a divorce petition and notice on the said divorce petition has been received by the wife as early as on 12.06.2016. This is sufficient indication that the wife had left the matrimonial home under the compelling circumstances. So far as the amount of compensation is concerned, since there is no evidence brought on record by the Husband before this court with regard to income of the wife, it cannot be said that the wife would not be entitled for maintenance from her husband. Even if for argument sake if it is accepted that respondent-wife is employed elsewhere, that by itself would not dis-entitle her maintenance amount from the Husband so as

to maintain a decent standard of living commensurate to the status of the Husband.

7. Indisputably, from the evidence which have come on record particularly the pay slip for the month of May, 2015, it reflects that gross salary of the Husband was more than Rs. 47,000/-, his take home salary was more than Rs. 31,000/- as he was a government Teacher and thus, looking to the facts and circumstances of the case, the wife would definitely be entitled for maintenance amount from the Husband commensurate to maintain a decent standard of living compared to the status of the Husband.
8. In the given factual matrix of the case, this court is of the opinion that the court below has not committed any illegality or infirmity while reaching to the conclusion of wife being entitled for maintenance amount and for which the court has granted Rs. 5000/- per month as maintenance. Since the order of maintenance is of 20.11.2015, this court is of the opinion that at this stage and after passing of over a year, the grounds for enhancement would be different than that it was at the time of passing of the order. Therefore, this court is not passing any order on the revision filed by the wife with the liberty for the wife to initiate fresh proceeding before the Family Court under Section 127 CrPC for enhancement. Therefore, both the revisions preferred by the Husband as well as Wife are dismissed upholding the award dated 20.11.2015.
9. Needless to mention that dismissal of this revision petition would not

preclude the respondent-Wife for initiating fresh proceeding under Section 127 CrPC seeking for enhancement of the award, if so choses.

10. With the aforesaid observations, both the revision petitions stand dismissed.

Sd/-  
(P.Sam Koshy)  
**Judge**

inder